



Making San Francisco Bay Better

September 1, 2011

Mark & Maureen Sanders  
16075 Skyline Boulevard  
Woodside, California 94062

SUBJECT: Response to Submittals and Summary of July 29, 2011 Meeting with BCDC  
Regarding Alleged Permit Violations at Westpoint Harbor, 1529 Seaport  
Boulevard, Redwood City, CA 9406; BCDC Enforcement File No. ER2010.13 and  
Permit No. 2002.002.04

Dear Mr. & Mrs. Sanders:

Thank you both for taking time to meet with staff here in our office on July 29, 2011. I believe significant progress was made during our meeting to help you move forward and resolve the outstanding violations of Amended Permit No. 2002.002.04.

The purpose of this letter is to follow up our meeting with a summary of issues and concerns that have been brought up during our discussions and by your submittals. My comments are intended to further clarify which violations remain outstanding, provide you with additional guidance to bring the project into compliance with the conditions of your amended permit, and update you on the status of the standardized fines that are accruing, and provide the dates by which you must achieve interim milestones to enable the staff to determine, pursuant to section 11386(h) of the Commission's regulations, that you are making a "good faith effort to correct the alleged violations," and thus avoid initiation of a formal enforcement proceeding under Sections 66638 and 66641.5(e) of the McAteer-Petris Act. Please note carefully the dates given below.

The dates given below require completion of specific components of your permit conditions. These deadlines supersede and replace the reference on page 9 of my May 4 letter to a 125 day deadline for correcting all outstanding violations and are set forth based on staff's determination that the deadlines allow reasonable and sufficient timeframes for you to complete these requirements. However please note that pursuant to Sections 11386(e)(2) and (3) of the Commission's regulations, that standardized fines continue to accrue on a daily basis for the unresolved violations noted below, up to a maximum of \$30,000 per individual violation, and the sooner these violations are corrected, the sooner the accrual of penalties will cease.

To begin with, those violations that have been fully corrected or otherwise satisfactorily addressed thus far include the following items.

1. **Failure To Obtain Extension of Permit Expiration Date.** Amended Permit No. 2002.002.04 expired on August 15, 2010, at which time you were required to have completed all development authorized through Amendment No. 3.

On June 22, we issued Amendment No. 4, extending the deadline for completion of the marina to August 15, 2014. This extension of time to complete Westpoint Marina does not extend any of the existing deadlines within the permit; rather, it allows you to finish the required public access and other improvements with an active versus expired permit.

The time extension does not authorize any construction that has not received final written plan approval from BCDC staff, including landscaping or erection of new signs or other structures. Final plan approval entails review and plan check by BCDC staff of detailed, site specific elements of various authorized and required improvements, and will require written sign-off from staff to legalize already-constructed development after-the-fact, as well as to complete all other development authorized by your amended permit, for both the private and public amenities.

Any unauthorized construction or development (i.e., construction or development that takes place without written BCDC staff plan approval or is not part of your existing permit) will be in violation of the McAteer-Petris Act, and will result in the commencement of a formal enforcement proceeding, which will subject you to further administrative and/or civil penalties.

2. **Failure to Perform Required Maintenance Functions.** The maintenance issues included in Special Condition II-B-5 and referenced in my letter of May 4, 2011, allude specifically to the "water-distressed" appearance of the landscaping adjacent to the decomposed granite pathway, which I observed during a brief site visit last summer. In addition, it was evident that some sprinkler heads located adjacent to the path were malfunctioning (possibly out of alignment), soaking the pathway instead of the vegetation.

You have indicated that the distressed appearance of the plants was likely due to shock caused by high salinity in the soil, and that the plants have since recovered well. We are pleased to hear that the vegetation has recovered, however as we have discussed, all landscaping at the marina must receive final approval as part of the overall design of your project during plan review and will require replacement pursuant to the maintenance condition of your amended permit if we observe maintenance issues.

Standardized fines are not presently accruing for the violation of Special Condition II-B-5 since no landscaping has been approved and the project is still under construction. However, the requirements of Special Condition II-B-5 remain in place for all development authorized by your amended permit.

3. **Failure To Submit Berthing Agreement Setting Forth Requirements For On-Board Toilets.** On July 29, 2011, you submitted a copy of the berthing agreement for vessels mooring at Westpoint Marina. This document, in conjunction with your prior submittal of the Westpoint Marina document entitled "*Harbor Rules and Regulations*" satisfies the requirement of Special Condition II-O-4 of your amended permit. No further action is needed regarding the marine toilet issue. However, standardized fines accrued on this violation and now stand at \$3,000 pursuant to Section 11386(e)(3) of the Commission's regulations.
4. **Failure to Provide Verification of Notification To NOAA To Update Nautical Charts.** Special Condition II-AA requires that you provide the Commission with written verification that you have submitted to the National Oceanic and Atmospheric Administration ("NOAA") 1) required as-built drawings, blueprints or other plans depicting the updated conditions of Westpoint Slough and Westpoint Harbor, and 2) if applicable, a list of any development that was removed and certification that the development was removed, and 3) the geographic coordinates of the project.

On June 6, 2011, you submitted a copy of a letter from you to Kate Fensterstock of NOAA, dated February 7, 2008, indicating that you had enclosed a post-dredging survey of the project area, with the locations of five navigational buoys. This submittal met part, but not all, of the requirements of Special Condition II-AA.

On July 29, 2011, you submitted copies of email correspondences between NOAA staff, Coast Guard staff, and yourself regarding updated chart corrections for Westpoint Slough and the harbor. Following our meeting on July 29, 2011, I confirmed the corrections to the NOAA nautical charts. As such, I have determined that you have met the requirement of Special Condition II-AA of your amended permit, and no further action is needed regarding the requirement for NOAA notification. However, standardized fines accrued on this violation and now stand at \$3,000 pursuant to Section 11386(e)(2) of the California Code of Regulations.

The violations that remain outstanding and still require your immediate attention to bring the Westpoint Marina and Harbor into full compliance with your permit include the following items.

1. **Paperwork.** Several areas where the Westpoint Marina project remains noncompliant with your amended permit may be resolved by simply submitting the necessary paperwork to my attention as noted below, and obtaining written approval thereof, which will stop the standardized fines from accruing. I have organized the issues covered in our discussion that remain outstanding, based on categories of action you need to take in order resolve all outstanding violations.
  - **Plans Documenting Design and Installation of Required Signage and Buoys.** Special Condition II-H requires, in part, installation and maintenance of buoys adjacent to the navigation channel of Westpoint Slough, to identify the "No Wake" speed zone, delineate the center of the channel for adequate draw, and discourage boats from deviating out of the navigable channel.

Your email of June 2, 2011 notes that the required buoys and signs are in place, but are not visible from the shoreline of the marina, and on June 6, 2011, you provided me with a close-up photograph of a posted Westpoint Harbor sign reading, "3 MPH NO WAKE." This language partially meets the requirements of Special Condition II-H, however, you need to specify the location of the buoys and provide us with examples of all existing buoy signage in your submittal for subsequent plan approval by us.

For after-the-fact approval of the existing buoys and signs adjacent to the navigation channel, you must provide the site plans as well as identifiable color photographs of the buoys and signs installed in the harbor and open water channels. The photographs must be taken from reasonable distances and angles so that staff may evaluate the design, placement, and locations of the buoys, signs, and support structures. This may be accomplished by submitting these documents with your anticipated submittals of detailed plans for final plan approval. Please submit these documents and obtain staff approval thereof on or before **October 31, 2011** to avoid the commencement of a formal enforcement proceeding.

Standardized fines continue to accrue on the violation of the signage requirement of Special Condition II-H, and now stand at \$5,400, (\$3,000 plus \$100 per day, totaling an additional \$2,400 between August 8, 2011 and the date of this letter), and will continue to accrue at \$100 per day hereafter, up to a maximum of \$30,000 per individual violation until the violation is resolved, pursuant to Sections 11386(e)(2) and (3) of the Commission's regulations.

You will fully resolve this violation and stop the standardized fines from accruing upon obtaining written approval of plans documenting the design and installation of all of the above-required signage and installing the development required by this condition on or before **October 31, 2011** to avoid the commencement of a formal enforcement proceeding.



In conjunction with Special Condition II-H, Special Condition II-I requires installation and permanent maintenance of informational signs to be installed at the boat launch and other public access areas, advising the public of the access restrictions on Greco Island and other wetlands in the San Francisco Bay National Wildlife Refuge. The permit requires the draft wording and locations of the signs to be coordinated with the U.S. Fish and Wildlife Service, California Department of Fish and Game, and the Commission staff.

The violation of Special Condition II-I can be resolved by submitting plans containing the required draft wording and design specifications to BCDC, USFWS, and CDFG for written approval of each agency. All signage must be in conformance with BCDC Public Access Signage Guidelines and must receive written staff approval prior to installation. This can be accomplished by incorporating your proposed sign locations as part of your submittals of detailed plans for final plan review and approval of Westpoint Marina.

Standardized fines continue to accrue on the violation of the signage requirement of Special Condition II-I, and now stand at \$5,400, (\$3,000 plus \$100 per day, totaling an additional \$2,400 between August 8, 2011 and the date of this letter,), and will continue to accrue at \$100 per day hereafter, up to a maximum of \$30,000 per individual violation until the violation is resolved, pursuant to sections 11386(e)(2) and (3) of the California Code of Regulations.

- **Live-Aboard Boat locations.** Special Condition II-P-1 requires Commission approval of the locations of all live-aboard boats pursuant to Special Condition II-A (Plan Review and Approval). Special Condition II-P-5 further requires that prior to leasing any berths for live-aboard boat use, you were required to have received prior written approval from the Commission, and have completed construction of restrooms, showers, parking and garbage disposal facilities on land adequate to serve authorized resident live-aboard and houseboat occupants, pursuant to plans submitted as required in Special Condition II-A, and have submitted a letter from the City of Redwood City stating the lease of a berth for houseboat or live-aboard purposes in this marina is consistent with local codes.

In addition, live-aboard boats may occupy no more than ten percent of existing berths at Westpoint Marina at any given time. To date, I believe you have approximately 180 berths, which would allow 18 live-aboard tenants at this time. Once the entire marina docks are completed, you will be allowed up to 40 live-aboard tenants, based on a final total of 400 berths.

You have indicated that every existing berth has a pump out station and you do not have specifically designated live-aboard berths. However Special Condition II-P-1 requires that you provide BCDC with the locations and quantity of live-aboard tenants at the marina. As we discussed on July 29<sup>th</sup>, we require the submittal of maps to our office depicting the location of each live-aboard boat, which you must keep up to date and provide to us on a regular basis. Live-aboard boats should be distributed rather than clustered so as to increase security for the marina, and the location of live-aboard boats shall be approved by or on behalf of the Commission pursuant to Special Condition II-A. The detailed distribution of live-aboard boats is a matter that under the permit is within your discretion to establish.

You may submit a plan depicting the range of proposed locations of existing and future live-aboard berths, so long as the intent of Special Condition II-A is adhered to. Once an acceptable plan is approved and you are granted written approval, this violation will be resolved. For your convenience, I have attached a copy of an acceptable live-aboard plan, which was recently submitted to BCDC by the Sausalito Yacht Harbor. Please note that your amended permit does not require you to submit the names of live-aboard tenants for Westpoint Marina.

Standardized fines continue to accrue for the violation of the failure to provide the required information designating the location of live-aboard berths, and now stand at \$5,400, (\$3,000 plus \$100 per day, totaling an additional \$2,400 between August 8, 2011 and the date of this letter), and will continue to accrue at \$100 per day hereafter, up to a maximum of \$30,000 per individual violation until the violation is resolved, pursuant to Section 11386(e)(2) of the Commission's regulations.

Finally, please provide written documentation from the City of Redwood City confirming that the lease for the berth for live-aboard boats is adequate and consistent with the City's local codes, as required by Special Condition II-A of your amended permit. Please submit this documentation and obtain staff approval thereof no later than **October 31, 2011** to avoid the commencement of a formal enforcement proceeding.

You will fully resolve this violation and stop the standardized fines from accruing for failure to provide written documentation from Redwood City confirming that the lease for the berth for live-aboard boats is adequate and consistent with the City's local codes upon 1) obtaining written staff approval of all of the above-required information, and 2) providing the required written documentation from the City of Redwood confirming that the lease for the berth for live-aboard boats is adequate and consistent with the City's local codes. Please submit a proposed plan for live-aboard locations and obtain staff approval thereof no later than **October 31, 2011** to avoid the commencement of a formal enforcement proceeding.

- **Certification of Contractor Review.** For all future development authorized by the amended permit at Westpoint Marina, please submit to my attention a signed copy of the form certifying that the general contractor in charge of the project has read and understands your amended BCDC permit and final stamped approved plans, as required by Special Condition II-U of your amended permit. A copy of a standard contractor certification form has been enclosed with this letter for your convenience and is also available on our website. No immediate action is required on this item until you are prepared to have a contractor carry out the authorized and required improvements pursuant to your amended permit. This documentation shall be submitted to my attention prior to the date of active construction of any phase of your permit.
2. **Permit Amendment.** Some areas where you are not in compliance with your amended permit require a permit amendment to achieve full resolution. Please begin the process to have your permit amended to resolve the following issues:
- **Signage to Alert Boaters of Sensitive Habitat.** During our meeting on April 17, 2011, you advised me that several metal signs were installed on Greco Island in lieu of the buoy system required by Special Condition II-H, and that this was completed at the direction of U.S. Fish and Wildlife Service ("USFWS") staff. In my letter of May 4,

2011, I requested that you provide written documentation that the USFWS has approved both the design and locations of the 35 signs erected on Greco Island.

On June 6, 2011, you included a photograph of one of the signs placed on Greco Island, which warns the public of restricted entry and sensitive habitat, and on August 25, 2011, I was pleased to receive notification from Eric Mruz of USFWS that the signs on Greco Island are acceptable to the Refuge staff. As such, BCDC staff has determined that the signage on Greco Island meets the fundamental intent of Special Condition II-H. However, the permit condition may need to be amended to reflect the proposed changes regarding the buoy and signage specifications.

You can begin the process of amending your permit immediately by submitting a signed letter requesting permission to amend the Special Condition II-H after-the-fact, and subsequently receiving approval from BCDC for the proposed changes to your permit. The fees for applications seeking after-the-fact approval are doubled. The fee for an amendment to change the requirements of Special Condition II-H of your permit is \$150.00, therefore the fee is \$300.00. Please submit your fileable Amendment request no on or before **October 31, 2011** to avoid the commencement of a formal enforcement proceeding.

You may fully resolve this violation and stop the standardized fines from accruing upon obtaining an amendment to modify Special Condition II-H and receive written staff approval of plans documenting the design and installation of all of the above-required signage and other development required by this condition. Please note that you are strongly advised to submit this amendment request immediately, since Standardized fines continue to accrue on the violation of the signage requirement of Special Condition II-H, as noted in detail above.

3. **Plan Development, Review, Approval, And Implementation.** A number of violations remain unresolved and can only be rectified through a combination of plan development, final plan review (plan check), and implementation. This process may become complicated and I ask that you contact Ellen Miramontes or me so we can help you come into compliance. Ellen can be reached by phone at (415) 352-3643, or by e-mail at [ellenm@bcdca.gov](mailto:ellenm@bcdca.gov). The following plan development and review requirements of your permit remain outstanding at this time:

- **Overall Plan Review.** Thus far, you have accomplished preliminary steps toward completing a number of requirements of your amended permit, including obtaining Design Review Board ("DRB") endorsement of certain components of the Marina, as well as Commission approval for overall project and the conceptual outline plans of the Marina configuration, which includes "Exhibit A" to Amended Permit No. 2002.002.03. However the steps that need to be carried out include submitting and obtaining approval of detailed construction, engineering, landscaping, and public access plans for a number of components of the project. This requirement is outlined in Special Condition II-A-1 of your amended permit.

To date, the only plan that has received final written approval for implementation at the marina is the 8-sheet site preparation plan, dated November 24, 2003, detailing excavation and construction of the marina basin. This plan was approved on November 3, 2005, as indicated in Brad McCrea's letter to you dated November 3, 2005.

On June 27, 2011, we received: (1) a set of plans containing 26 sheets entitled "Construction Drawings for WestPoint Marina and Boatyard, Phase I", prepared by the City of Redwood City Engineering Division. Sheet 1 is dated July 28, 2007 and Sheets 2-26 are dated March 12, 2007; and (2) a set of plans entitled "Harbormaster Office," prepared by b design studio/ solution, Architecture Planning Interiors. By separate letter, Ms. Miramontes will review and approve these plans shortly. However, they do not fulfill the requirements of Special Condition II-A, as described below.

You are required to provide complete sets of plans for each component of the Marina, including landscaping (both for as-built as well as proposed landscaping), construction layout and detail plans, elevations, architectural, and engineering plans as appropriate to each phase of development, which shall be submitted to the attention of Ellen Miramontes. Please submit this documentation no later than **October 31, 2011** to avoid the commencement of a formal enforcement proceeding.

Engineering plans shall include a complete set of construction drawings and specifications and design criteria. Staff will review the plans and work with you and your professional landscape architect and other representatives to ensure that the plans are fully consistent with your amended permit. The plans may undergo modification during the review process, and Ellen and I will keep you informed of the next steps once plans have been submitted to her.

Ordinarily, construction and landscape plans are required to be approved in writing by BCDC before any construction begins on a project. It is imperative that plans are completed and approved before you move forward with any additional development or landscaping, which will likely save you time and expense during the review and approval process. As well, the standardized fines will continue to accrue for this violation until you have obtained written plan approval for ALL of the authorized improvements associated with Phase 1B of the project that you either have already constructed or need to construct to resolve the violation of Special Condition II-B-4, Public Access.

Standardized fines continue to accrue for the violation of the requirement to provide and receive written approval for final plans, and now stand at \$5,400, (\$3,000 plus \$100 per day, totaling an additional \$2,400 between August 8, 2011 and the date of this letter,), and will continue to accrue at \$100 per day hereafter, up to a maximum of \$30,000 per individual violation until the violation is resolved, pursuant to Section 11386(e) of the California Code of Regulations.

- **Plan Review and Implementation For Public Access Improvements.** Staff has viewed the decomposed granite pathway already constructed along the southern and northwestern border of the marina basin. Staff is pleased with the appearance of the pathway, however the final design for the pathway, including the location, design, and construction detail of the pathway requires final written plan approval. The construction details shall be consistent with the requirements of Special Condition II-A and II-B-4, Public Access, of your amended permit and include a cross-section of the pathway, and include the type and depth of base materials used to stabilize the path.



Altogether, you will need to submit "as-built" construction and proposed construction drawings for: (1) the pathway already in-place, and: (2) construction and design plans for all proposed pathways and other public access areas for Westpoint Marina, including but not limited to the two lookouts at the mouth of the marina, the connection of your pathway to Pacific Shores' pathway, walkways, ramps, public boat launch, public restrooms, parking for boats, et cetera, as required by Special Condition II-X.

Plans must also include the design and location all public access-related furnishings, including but not limited to benches, trash receptacles, tables, lighting, and signage. Please ensure that your professional landscape architect consults with your amended permit and, if necessary, Ellen to ensure that the plans are developed in compliance with your amended permit.

You have indicated that some of the twelve required public parking spaces are now marked with paint. Presumably, these are the four spaces located at the southwest section of the parking lot as indicated on Exhibit A to the permit.

Per our discussion on July 29<sup>th</sup>, these parking spaces require upright signs, clearly visible to motorists entering Westpoint Marina, denoting that they are open to the public. I have provided you with a copy of the BCDC Public Access Signage Guidelines for guidance. The number and precise specifications for the public parking signs should be coordinated with and approved by staff, and shall be installed no later than **December 1, 2011** to avoid the commencement of a formal enforcement proceeding. To allow time for staff review of the signage proposal, please submit and obtain staff approval of the required plans and documents on or before **October 31, 2011** to avoid the commencement of a formal enforcement proceeding.

Finally, Special Condition II-B-4 of the amended permit requires these parking spaces, as well as the entire parking lot area, to remain open for public parking during daylight hours. Compliance with this requirement is necessary to avoid the commencement of a formal enforcement proceeding.

In addition to installation of the public parking signs at the recently marked parking spaces, we are notifying you once again that you must remove the privatizing signs from the entrance of Westpoint Marina. Specifically, the posted signs that read, **"MEMBERS AND GUESTS ONLY"** **"PRIVATE PROPERTY / NO TRESPASSING / VIOLATORS WILL BE PROSECUTED,"** and **"WESTPOINT HARBOR / PRIVATE FACILITY/Members and Guests ONLY."** Not only are these signs unauthorized, they are in direct conflict with the letter and the intent of both the public access conditions of the permit and the terms of the recorded public access dedication. Accordingly, the signs remain in violation of your amended permit and must be removed. Please remove all of the unauthorized signs described above and submit photographic evidence of having done so on or before **December 1, 2011** to avoid the commencement of a formal enforcement proceeding.

These signs shall be replaced with BCDC Public Shore (and public parking) signs to be installed and verified with photographic evidence by **December 1, 2011**, to avoid the commencement of a formal enforcement proceeding, pursuant to staff approved plans showing the location, dimension, and design of all signs.



You also indicated during our meeting on July 29<sup>th</sup> that members of the public repeatedly enter Westpoint Marina with the impression that the Harbormaster's building contains a restaurant. As I indicated to you during our meeting, you may place temporary signage, upon obtaining written staff approval of plans, which advises the public that there are currently no restaurant facilities at the marina. Should you decide to pursue this option, you may include your proposal with your submittal for final plan review.

Finally, you have indicated that the required public restrooms are signed and open for public use. These restrooms shall remain open for public use during daylight hours, and shall be clearly designated with BCDC staff-approved signs indicating that the restrooms are open for public use. Any change to this requirement requires written approval from staff, such as if you intend to keep the restrooms locked with key access upon request at the harbormaster's office.

Standardized fines continue to accrue for the violation of the requirement to complete the public access improvements required under Phase 1B of the amended permit, and now stand at \$5,400, (\$3,000 plus \$100 per day, totaling an additional \$2,400 between August 8, 2011 and the date of this letter,), and will continue to accrue at \$100 per day hereafter, up to a maximum of \$30,000 per individual violation until the violation is resolved, pursuant to sections 11386(e)(2) and (3) of the Commission's regulations.

You will fully resolve this violation and stop the standardized fines from accruing upon obtaining Commission approval of plans for and implementing the public access amenities required by this condition pursuant to the approved plans.

- **Plan Review and Implementation For Visual Barrier to Adjacent Salt Pond.** Pursuant to Special Condition II-K, a "visual barrier" is required between the active marina and the adjacent Cargill salt pond, which can be accomplished by a setback of 85 to 90 feet or a combination of a reduced setback combined with visual barriers such as landscaping. As I noted in my May 4<sup>th</sup> letter, and our discussion on July 29<sup>th</sup>, the distance between the southern boundary of the marina and the edge of the Cargill salt pond appears to be uniformly less than 85 feet (on average approximately 60 to 70 feet), thus requiring additional screening to fulfill the requirement of Special Condition II-K. Producing an aesthetically pleasing barrier of landscaping adjacent to the parking lot area to shield the pond will meet the requirement of Special Condition II-K. You should work with staff to ensure that the approach taken to meet this condition is consistent with your amended permit. Any action that you intend to take to meet this condition must be included on the landscaping plans to be approved in writing by staff. Your proposal for the visual barrier should be included as part of your overall detailed landscaping plans and you should install this landscape barrier as soon as possible upon obtaining BCDC staff approval of those plans.

Standardized fines continue to accrue for the violation of failure to install the visual barrier to the adjacent salt pond, and now stand at \$5,400, (\$3,000 plus \$100 per day, totaling an additional \$2,400 between August 8, 2011 and the date of this letter, August 30, 2011), and will continue to accrue at \$100 per day hereafter, up to a maximum of \$30,000 per individual violation until the landscape barrier is installed pursuant to BCDC staff-approved landscaping plans, pursuant to sections 11386(e)(2) and (3) of the Commission's regulations.

You will fully resolve this violation and stop the standardized fines from accruing upon obtaining Commission approval of plans for and installing the visual barrier required by this condition pursuant to the approved plans. Please submit plans for the visual barrier component of your plan no later than **October 31, 2011** to avoid the commencement of a formal enforcement proceeding.

4. **Timing.** Based on our discussion on July 29, 2011 and your submittal, the numerous elements addressed above, including completion of the public access pathway along the southern portion of the marina, beginning at the Harbormaster's building, continuing west and north along the perimeter of the marina basin, and connecting to the Pacific Shores pathway, should be completed and open to the public no later than **December 31, 2011** pursuant to BCDC staff-approved plans to avoid commencement of a formal enforcement proceeding. Please see the attached exhibit with highlights in yellow for reference to the area that is required to be completed. We understand your concern regarding public safety and timing for completion of the public access pathway, and we believe this is a fair and reasonable extension of the deadline for completion of this phase of the project to avoid commencement of a formal enforcement proceeding. In addition, the fence blocking access along the border between Pacific Shores and Westpoint Marina may remain in place no later than **December 31, 2011**, or no later than the completion of the portion of required public access noted above, should it occur prior to December 31, 2011.

The second significant section of the public access pathway required to be completed under Phase 1B and opened for public use is the pathway extending from approximately the Harbormaster's building, continuing east and north, to the NW and SW sections of the marina as generally shown on Exhibit A of your amended permit. This section of public access pathway, as well as the public boat launch and parking area, with fifteen signed public spaces, shall be completed no later than **April 1, 2012** pursuant to BCDC staff-approved plans to avoid commencement of a formal enforcement proceeding.

As noted above, you are required to submit and obtain written staff approval of fully completed, detailed construction plans for both the existing and future pathways. This shall be completed and submitted to this office and approved no later than **October 31, 2011** to avoid commencement of a formal enforcement proceeding.

5. **Accrued Penalties.** Our enforcement procedures remain in place pursuant to my letter of May 4, 2011, however we obviously wish to work with you to resolve these matters and move the Westpoint Marina project forward. Pursuant to the information provided to you in my letter of May 4<sup>th</sup>, 2011, the Commission may commence a formal enforcement proceeding that could lead to the issuance of a cease and desist and civil penalty order with an administratively imposed civil penalty of between \$10 and \$1,000 per day up to a maximum of \$30,000 per alleged violation. It is incumbent upon you to work diligently to correct the violations and work with staff to complete the requirements of your amended permit by the deadlines specified in this letter, or, where no deadline is specified, by 125 days from May 4, to avoid the commencement of a formal enforcement proceeding.

Several deadlines for completion have been specified in this letter, for which you are responsible to either 1) submit plans or other documents, and 2) obtain written approval thereof, and 3) complete construction or installation of authorized or required elements of your permit. These dates are provided only as deadlines to avoid formal enforcement proceeding, and do not preclude you from completing any requirements prior to those dates, contingent upon receiving written plan approval from staff for all of upcoming work you need to undertake. I strongly encourage you to diligently pursue completion of the requirements of your permit as outlined above, not only to avoid a formal enforcement proceeding, but also to minimize your liability for the accruing standardized fines under sections 11386(e)(2) and (3) of the Commission's regulations.

5. **Conclusion.** We believe you will be able to bring your project into compliance with your permit and move forward with the completion of the Phase 1B public access requirements as Westpoint Marina. As we have expressed to you previously, staff is available to assist you with all required submittals to meet the conditions of your amended permit. It remains your responsibility to ensure that you comply with all of the conditions of your amended permit, at which point you will stop accruing standardized fines and avoid the commencement of a formal enforcement proceeding.

Should you have questions regarding this correspondence or need assistance, please contact me by telephone at (415) 352-3659 or by email at [tsinclair@bcdc.ca.gov](mailto:tsinclair@bcdc.ca.gov).

Sincerely,



TOM SINCLAIR  
Coastal Program Analyst

Enc.

TS/gg

cc: Will Travis, Executive Director, BCDC  
Ellen Miramontes, Bay Design Analyst, BCDC  
Adrienne Klein, Chief of Enforcement, BCDC  
John Bowers, Staff Counsel, BCDC  
Mike Smiley, BMS Design Group



## SAUSALITO YACHT HARBOR

A CORPORATION  
501 HUMBOLDT (lower)  
SAUSALITO, CALIFORNIA 94965  
PHONE (415) 332-5000  
FAX (415) 332-8473

RECEIVED  
AUG 30 2011

SAN FRANCISCO BAY CONSERVATION  
& DEVELOPMENT COMMISSION

August 26, 2011

Adrienne Klein  
San Francisco Bay Conservation  
and Development Commission  
50 California Street, Suite 2600  
San Francisco, CA 94111

Dear Adrienne:

As required, please find enclosed Sausalito Yacht Harbor's Live-aboard Plans, Live-aboard Tenants' Names and the Annual Security Report.

Sincerely,

James F. Madden  
Manager

enclosures

*called Elsa to thank her on 8.31.2011*



**Sausalito Yacht Harbor  
Security Report  
20010/2011**

No. of Reports: 0

Date: \_\_\_\_\_

Reported By: \_\_\_\_\_ Slip #: \_\_\_\_\_

Incident Description: \_\_\_\_\_

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Date: \_\_\_\_\_

Reported By: \_\_\_\_\_ Slip #: \_\_\_\_\_

Incident Description: \_\_\_\_\_

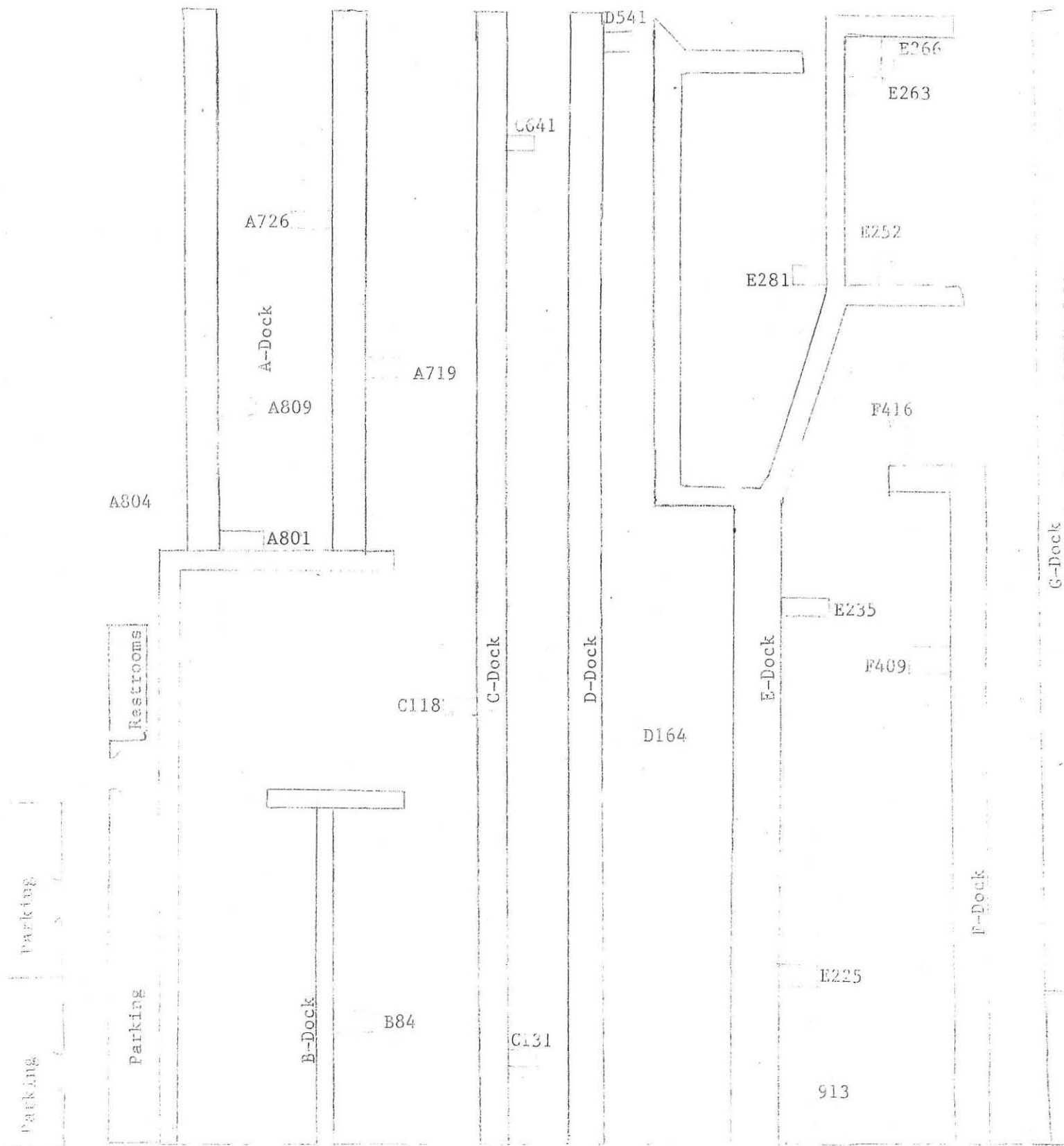
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1	913	1717	Mark Cattell
2	A719	122	David King
3	A726	1599	James Sweeney
4	A801	1362	Roger Noteware
5	A804	2305	Tim O'Hearn
6	A809	2456	Pamela Brown
7	B84	1528	Sven Querner
8	C118	1883	Thomas Zinn
9	C131	362	Peter Ivory
10	C641	1677	Bruce Hunter
11	D164	1810	Jerry Tarpin
12	D541	2383	Jon Bielinski
13	E225	251	James Stitt
14	E235	2910	Christi Graham
15	E252	2437	Frederik Norgaard
16	E263	792	Eugene Schoenfeld
17	E266	2479	Robert Zadek
18	E281	2221	Carolynn Dean
19	F409	2674	Victor Goulet
20	F416	228	Richard Manning